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GOVERNMENT GAZETTE

BOLETIM OFICIAL

GOVERNMENT OF GOA, DAMAN AND DIU

Secretariat

Planning and Development Department

ORDER

CS/37/66

In exercise of powers conferred by clause 2 and 3 of the Goa, Daman and Diu (Administration) Removal of Difficulties Order, 1962 and notwithstanding anything to the contrary contained in any law or order for the time being in force, the Lieutenant Governor of Goa, Daman and Diu is hereby pleased to order that all fees payable under various Licensing Orders in force in this Union Territory shall be paid henceforth in any Government Treasury or Office of the State Bank of India for credit to the Government by way of Treasury Challan under the Head «Licence Fees» subordinate to the major head «LII-Miscellaneous».

K. B. Lall, Deputy Secretary (P).

Panjim, 16th February, 1966.

Legislative Assembly of Goa, Daman and Diu

Legislature Department

LA/500/66

The following Report of the Select Committee on Bill No. 20 of 1965 (The Goa, Daman and Diu Mamlatdars' Courts Bill, 1965) along with the Bill as amended by the Select Committee which was presented to the Legislative Assembly of Goa, Daman and Diu, on the 28th February 1966 is hereby published for general information in pursuance of the provisions of rule 260 of the Assembly Rules.

Bill No. 20 of 1965

A BILL

To constitute courts of Mamlatdars and to regulate their powers and procedure and matters connected therewith.

COMPOSITION OF THE SELECT COMMITTEE

- 1) Shri Tony Fernandes, Minister-in-charge of the Bill (Chairman)
- 2) Shri R. A. Tople, M. L. A.
- 3) Shri Dattaram Chopdekar, M. L. A.
- 4) Shri P. S. Naik, M. L. A.
- 5) Shri Jaysingrao Rane, M. L. A.
- 6) Dr. A. de Loyola Furtado, M. L. A.
- 7) Shri J. L. G. Araujo, M. L. A.
- 8) Shri J. M. D'Souza, M. L. A.

SECRETARIAT

Law and Legislature Department

Shri P. B. Venkatasubramanian, Secretary.

Shri R. V. Oroskar, Under Secretary.

Shri Kant Desai, Under Secretary.

Revenue Department

Dr. S. A. Nadkarni, Secretary.

REPORT OF THE SELECT COMMITTEE

1. The Chairman of the Select Committee to which Bill No. 20 of 1965 (a Bill to constitute courts of Mamlatdars and to regulate their powers and procedure and matters connected therewith) was referred, having been authorised by the Committee to submit the report on their behalf, present this report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Legislative Assembly on the 4th August 1965 and was published in the Government Gazette on the 26th August 1965. The Motion for reference of the Bill to a Select Committee of the House was passed by the Assembly on 8th November 1965.

3. The Committee held twelve sittings on the following dates:

22nd November, 1965;
6th December, 1965;
7th December, 1965;
9th December, 1965;
13th December, 1965;
15th December, 1965;
20th December, 1965;

10th January, 1966;
27th January, 1966;
28th January, 1966;
1st February, 1966 and
16th February, 1966.

The Committee finalised and adopted the Report at its meeting on 16-2-1966.

4. The Committee decided to invite views and suggestions on the Bill from various associations of landlords and tenants in Goa, Daman and Diu and members of the Bar and other interested persons. A press note to this effect was issued on 23rd November 1965. The Committee also requested some prominent members of the Bar to appear before the Committee, if they so desired. Accordingly, Adv. Vinayak Kaisare, Adv. Amadeu Prazeres D'Costa and Adv. J. S. Dhond appeared before the Committee on 6th and 7th December 1965 and made certain very valuable suggestions which were duly taken into consideration by the Committee. Certain representations from the public were also received and were taken into consideration by the Committee.

5. The Bill as introduced did not provide for removal of mining rejects illegally dumped on agricultural land. This is a problem peculiar to Goa and the Committee felt that the scope of the Bill should be expanded so as to include this matter. Again, the original Bill did not give protection to a «mundcar» who might be illegally evicted from his dwelling house by his landlord. This mundcar problem is again a peculiarity of Goa and the Committee felt it necessary to include «mundcar» in the scope of the Bill. Thirdly, the original Bill provided for removal of any illegal obstruction by a land-owner to a flow of water coming on to his land from his neighbouring land so as to cause inundation of the neighbouring land. It did not provide for a case where the neighbouring land-owner raised an impediment on his own land so as to stop the water flowing on to the adjacent land thus depriving the other land-owner of the water which was flowing to his land either naturally or customarily. The Committee thought that the scope of the Bill should be expanded so as to include such cases also. Further, the original Bill had imposed a time limit of 6 months for a cause of action and this time limit of 6 months applied also to the causes of action at the commencement of the Act. The Committee thought that it would be desirable to increase the time limit to one year and also to permit all causes of action that existed at the commencement of the Act without any time limit subject to the application of the provisions of the Limitation Act.

6. The Committee was of the opinion that normally pleaders should be barred from appearing in the Mamlatdar's Court.

7. The original Bill contained a Schedule in which certain forms were prescribed. The Committee thought that instead of the forms being included in the Act it would be better if they are prescribed under Rules. The Committee, therefore, inserted a clause in the Bill conferring on Government rule making power under which, *inter alia*, the forms could be prescribed.

8. The observations of the Committee in regard to principal changes in the Bill are dealt with in the succeeding paragraphs:

9. Clause 2 — (i) sub-clause (a) — The original Bill did not contain a definition of «Agriculture».

The Committee felt that it was necessary to include this definition. It also felt that the definition of «Agriculture» for the purposes of the present Bill should be wider than the definition under the Agricultural Tenancy Act and a suitable definition of «Agriculture» has therefore been added in this clause.

(ii) sub-clause (b) — The Committee felt that instead of defining Government as the «Administrator» it would be better to define it as the «Government of Goa, Daman and Diu». The definition has therefore been amended accordingly.

(iii) sub-clause (d) — A definition of «mundcar» has been added which was necessary as the scope of the Bill is sought to be extended to cover the cases of mundcars also.

(iv) sub-clause (g) — A definition of «Village Officer» is added.

* 10. Clause 3 — (i) sub-clause (1) — The original clause provided that a Joint Mamlatdar shall dispose of such suits or proceedings as he may receive from the Mamlatdar. The Committee felt that the Joint Mamlatdar could also entertain cases that may be transferred to him by the Collector or by Government. The clause has therefore been amended accordingly.

(ii) sub-clause (2) — This clause authorised the Mamlatdar to transfer or re-transfer any suit to the Joint Mamlatdar. The Committee felt that a restriction should be imposed on Mamlatdar's power so as to provide that no suit or proceeding could be transferred after any evidence has been recorded therein and hence the addition of the proviso to this sub-clause.

11. Clause 4 — (i) This is by far the most important clause of the Bill as it provides for the powers of the Mamlatdar's Court.

(ii) sub-clause (1), paragraph (a) — This sub-clause authorises the Mamlatdar to remove an impediment to a natural flow of water, naturally arising in or falling on any land. The Committee felt that the sub-clause should also apply to customary flow of water and also to water which is artificially arising. The sub-clause has therefore been amended to serve this object.

(iii) sub-clause (1), proviso to paragraph (b) — The Committee was of the view that the powers given to the Mamlatdar in this proviso were not necessary. The proviso has therefore been deleted.

(iv) sub-clause (1), paragraph (c) — The original Bill did not provide for removal of any refuse or mining reject or any other substance which is dumped or placed on any agricultural land otherwise than under due authority of law. There are many cultivable lands in Goa which were rendered unfit for cultivation due to unauthorised dumping of mining rejects by a mine-owner. The poor agriculturist on whose land the owner of his neighbouring mine dumped mining rejects was powerless to get justice against the mine-owner for years together as the mine-owner was very powerful. The Committee felt that under the present democratic rule it was necessary for Government to give justice to the poor agriculturist whose land was rendered unfit for cultivation for years together because of the mining rejects. The Committee felt that the mine-owner should be compelled to remove all the mining rejects

dumped on somebody else's land immediately at his own cost and felt that it was necessary to give such power to the Mamlatdar in this Bill. A new sub-clause has therefore been added to provide for such cases.

(v) sub-clause (1), paragraph (d) — The original Bill did not provide for restoration of a dwelling house to a tenant of agricultural land from which he may have been evicted by his landlord. A new sub-clause has therefore been added.

(vi) sub-clause (1), paragraph (e) — The Committee further felt that the scope of this Bill should be expanded to include the cases of «mundcar» who may have been deprived of his dwelling house by his landlord. This mundcar problem is of special importance in Goa. This new sub-clause is therefore added to empower the Mamlatdar to give immediate possession of a mundcar's house from which he may have been illegally evicted by his «Bhatkar».

(vii) sub-clause (1), paragraph (f) — The original Bill did not deal with restoration of right of way. There are a large number of cases affecting right of way. The Committee felt that it was necessary to provide for the same. This sub-clause has therefore been added for this purpose.

(viii) sub-clause (1), paragraph (g) — The Committee felt that the scope of the Bill should also be extended to include the restoration of right to use or take water for purposes of irrigation and domestic use of which any person may have been deprived otherwise than under due authority of law. This sub-clause has therefore been added for this purpose.

(ix) sub-clause (3) — The original sub-clause provided that no suit shall be entertained by a Mamlatdar's Court unless it is brought within six months from the date on which the cause of action arose. The Committee felt that in view of the general backwardness of agriculturists in Goa it is necessary to raise this limit from 6 months to one year. The Committee also felt that suits on causes of action that existed at the commencement of this Act should be allowed without any time limit subject, of course, to the provisions of the Limitation Act. This was necessary especially for the cases of dumping of mining rejects which have been there for years together. This sub-clause has therefore been amended accordingly and a proviso has also been added.

12. Clause 5 — (i) sub-clause (1) — This sub-clause deals with power of the Collector to transfer a suit. The Committee felt that this sub-clause should be so amended as to ensure that the Collector would not exercise the power of transferring suits *suo moto* but should exercise it only on an application made by a party to the suit, and the Collector should be required to record his reasons. The sub-clause has therefore been amended accordingly.

(ii) sub-clause (2) — Similarly the Committee felt that the Collector should be given power to transfer a suit or proceeding from a Mamlatdar to a Joint Mamlatdar and from a Joint Mamlatdar to a Mamlatdar, which was not provided for in the original clause. A new sub-clause has therefore been added to this clause.

13. Clause 6 — This clause provides, *inter alia*, that a suit or a proceeding shall be commenced by a plaint presented to the Mamlatdar in open court by the plaintiff. The Committee thought that since the Mamlatdar is a very busy officer and is required to be away from his headquarters very often it was

necessary to permit the plaint to be presented to any other person authorised by him in his absence. The clause has therefore been amended accordingly.

Sub-clauses (d), (e), (f) and (g) are in consequence of the amendment to Clause 4.

14. Clause 8 — The Committee felt that it should be made obligatory for the Mamlatdar to explain to the plaintiff the substance of the examination which he has reduced to writing and to obtain the signature of the plaintiff thereon. The clause has been amended accordingly.

15. Clause 13 — sub-clause (2) — This sub-clause provides that the date to be fixed by the Mamlatdar for the trial of the case shall not be earlier than 10 days and not later than 15 days from the issue of notice. The Committee felt that in cases where the object of the suit would be defeated by giving 10 days' notice the Mamlatdar should invariably fix such shorter period as is essential to give proper and timely relief. A proviso has therefore been added to this sub-clause for this purpose.

16. Clause 16 — sub-clause (2) — This sub-clause *inter alia* provides that the Mamlatdar shall adjourn the hearing of the suit from time to time till the attendance of certain witnesses could be enforced. The Committee was of the view that this provision should not be used for the purpose of vexatious delay or for defeating the ends of justice. A proviso has therefore been added to this sub-clause which enables the Mamlatdar, if he is satisfied for reasons to be recorded in writing that the evidence of any witness is not relevant or material or that his presence is sought only for the purposes of vexation or delay or for defeating the ends of justice, to decline to adjourn the hearing of the case.

17. Clause 18 — (i) sub-clause (1) — Paragraphs (e), (f) and (g) have been added consequent to the amendment of Clause 4.

(ii) sub-clause (3) — The original clause required the Mamlatdar to write a memorandum of the substance of evidence of each witness in his own hand. The Committee thought that it would be a heavy burden if the Mamlatdar is required to write such memorandum in his own hand. It therefore thought that it would be better to authorise the Mamlatdar to record the substance of the evidence either himself or through his assistant. The Committee further felt that the Mamlatdar should read over or explain the substance of the memorandum prepared by him to the witness and obtain his signature thereon. The sub-clause has therefore been amended accordingly.

(iii) sub-clause (4) — This sub-clause, *inter alia*, provided that costs shall follow the decision. The Committee however felt that the Mamlatdar should be authorised in proper cases, and for reasons to be recorded in writing, to order that the costs shall not follow the event. The sub-clause has therefore been amended accordingly.

18. Clause 20 — sub-clause (1) — This clause lays down the procedure of execution of the Mamlatdar's decision. The Committee was of the view that to enable the Mamlatdar to execute his order it is necessary to permit him to use such force as may be reasonably necessary and expedient. However, when the Mamlatdar himself removes or causes to be removed any impediment, refuse or encroachment the Mamlatdar should be able to recover the cost from

the party at fault. The sub-clause is therefore amended accordingly.

19. Clause 22 — (i) sub-clause (2) — The original clause authorised the Collector to call for and examine the record of any suit under this Act. The Committee felt that it would be necessary to make it obligatory on the part of the Collector to exercise this power either on his own motion or on an application by the aggrieved party or by a direction from the Government. The sub-clause has been amended accordingly. The Committee also felt it necessary to provide that no record shall be called for after the expiry of 60 days from the date of the order unless an application from the parties or a direction to that effect has been received by the Collector within the period of 60 days.

(ii) sub-clause (3) — This clause empowered the Collector to delegate his powers to the Assistant Collector or Deputy Collector. The Committee felt that it was not desirable for the Collector to have such powers and felt that in case it was felt necessary that any officer below the rank of the Collector should exercise these powers, then such power should be conferred only by the Government by a notification. The sub-clause has therefore been amended so as to provide that Government may by notification in the Official Gazette authorise any officer not below the rank of Deputy Collector to exercise the powers of the Collector under this Act.

20. Clause 26 — The original Bill did not contain any clause empowering Government to make rules. This clause is therefore added to the Bill.

21. Clause 27 — A new clause empowering Government to give directions under this Act has been added.

22. Clause 28 — A new clause barring the appearance of pleaders in the cases under this Act has been added. The Committee thought that it was not desirable from the point of view of poor tenants to allow pleaders to appear in the cases under this Act. The reason was that disputes under this Act would be generally between a landlord and a tenant or a farmer and a mine-owner and the like and generally in most of the cases one party will be poor and the other party rich. If pleaders are permitted the party which is rich is likely to engage an eminent pleader and the opposite party will have to bear very heavy expenditure in engaging a pleader of more or less equal eminence. This will give rise to unnecessary expenditure for the parties. The Committee therefore thought that pleaders should normally be barred from appearing in the cases under this Act. The Committee however felt that in exceptional cases when the Mamlatdar feels that it would be proper to allow a pleader to be engaged by the parties in the interest of justice, he should be empowered to do so for reasons to be recorded in writing and in such cases the opposite party also should be at liberty to be represented by a pleader. The Committee also felt that this bar should not be applicable to authorised office bearers of various associations of tenants, etc.

23. Changes made by the Committee in other clauses of the Bill are either clarificatory or of a minor, consequential or drafting nature.

24. The Committee would like to express their thanks to Adv. Vinayak Kaisare, Adv. Amadeu Prazeres D'Costa and Adv. J. S. Dhond for responding

to the invitation and for giving very valuable suggestions which helped the Committee to a great extent in their deliberations. The Committee would also like to place on record their appreciation for the assistance rendered by Dr. S. A. Nadkarni, Revenue Secretary, in their deliberations.

25. The Committee would also like to express their thanks to Shri P. B. Venkatasubramanian, Secretary, Law and Legislature, Shri R. V. Oroskar, Under Secretary (Legislature) and the other staff of the Legislature Secretariat for the excellent assistance rendered by them in the deliberations of the Committee.

ASSEMBLY HALL
Panjim, February 28, 1966

TONY FERNANDES
Chairman

JOINT MINUTE OF DISSENT

by Dr. A. de Loyola Furtado M. L. A.
and
Shri J. L. G. Araujo M. L. A.

We regret that divergences on some fundamental issues have compelled us to record this minute of dissent.

1. We agree with the principle that speedy and prompt and cheap administration of justice is required in matters this Bill is concerned with, the more so because the Portuguese Civil Procedure Code is being repealed. Justice delayed is, indeed, justice denied. But the scheme adumbrated in this Bill conferring judicial powers on Mamlatdars who are executive officers in more than one capacity in this Territory cannot be agreed to by us. We believe in the separation of powers. We feel no proper justice will be meted out by executive-cum-judicial officers, entirely dependent on Government, in certain respects. Justice must not only be done when it is done, but also must appear to be done. Besides, in this Territory there always was a separation of judiciary from the executive, even in the erstwhile regime. We will be putting the clock back if we combine executive with judicial functions. To add to all this, a directive principle of the Constitution enjoins the duty to separate the executive from the judiciary.

2. We are not impressed by the argument that the system of Mamlatdars' Courts is prevalent in the rest of India and that uniformity in administration demands the establishment of such courts in this Territory. The argument is hardly valid. A wrong or a hundred wrongs do not make one right. The right thing to do is to separate the judiciary from the executive. The contrary is a retrograde mode of thinking.

3. We suggest we should have Courts but the judges should be independent judges functioning in Civil Courts. Independent, of course, of Government. They would have all the powers that are spoken of in this Bill.

4. As a corollary to the mode of thinking set out above, we feel the powers conferred on Government by the Bill — sweeping and omnibus powers — to transfer cases, to issue directives etc. to Mamlatdars are a positive danger to the working of democracy and administration of justice. We strongly object to those powers conferred on Government.

5. Even if we admit, which we do not, that the Mamlatdars should be vested with judicial powers,

we feel certain qualifications at least should have been prescribed for filling up the posts of Mamlatdars and Joint Mamlatdars.

6. Basically the Bill deals with breaches of law, and the law presently in force in matters of title to property, for instance, is the Portuguese Civil Code. How can any one be at all called upon to be a judge if he knows as much of the Portuguese Civil law in force as the man in the moon? We feel, therefore, that if a judge is appointed, he should be conversant with Portuguese Civil Code. Goan lawyers conversant with Portuguese law or other relatively senior officers of Portuguese regime with sufficient experience of, say, five or six years, would be suitable candidates for the post of judges.

7. The Bill provides for revision of orders passed by the Mamlatdars. But there is no provision for stay of execution. It will be a sad day if an order is passed and executed and a party made to suffer heavily on account of, say, a demolition of an impediment, and soon after that the revision authority reverses the decision;

There ought to be a stay of execution of orders passed if the aggrieved party asks for revision. This is plain commonsense.

8. No period of transition is foreseen in the Bill. We feel cases presently pending in Civil Courts should run their course and the new Courts should take notice only of fresh breaches of law.

9. It is common experience that the Mamlatdars, functioning as Court, take down the statements of witnesses, not unoften, in Marathi, though the Orders are passed in English. When the aggrieved party goes on appeal he or she finds it difficult to get the statements translated into a language he or she understands. Even in the Administrative Tribunal there are members who do not know Marathi.

To rectify this state of affairs no provision has been made as to the language to be used in the Court.

10. In case the Act under consideration is passed and a provision is made for its translation in local languages, we feel the Act should be translated into Konkani (in Roman script), Marathi, Gujarati and Portuguese.

A. de LOYOLA FURTADO, M. L. A.
J. L. G. ARAUJO, M. L. A.

[NOTE. — Deletions made by the Select Committee are shown in square brackets and additions are underlined].

The Mamlatdars' Courts Bill, 1965

(Bill No. 20 of 1965)

A Bill to constitute courts of Mamlatdars and to regulate their powers and procedure and matters connected therewith

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the [sixteenth] seventeenth year of the Republic of India as follows:

1. Short title, extent and commencement. — (1) This Act may be called the Goa, Daman and Diu Mamlatdars' Court Act, [1965] 1966.

(2) It [shall extend] extends to the whole of the Union Territory of Goa, Daman and Diu.

(3) It shall come into force on such date as Government may by notification in the Official Gazette appoint and different dates may be fixed for different areas.

2. Definitions. — In this Act, unless there is anything repugnant in the subject or context —

(a) [«Mamlatdar» means a person appointed as a Mamlatdar by Government and includes a Joint Mamlatdar;]

«Agriculture» With its grammatical variations and cognate expressions, means raising of useful or valuable products which derive nutriment from the soil with the aid of human labour and skill and includes horticulture, dairy farming, poultry farming, stock breeding, grazing and pisciculture;

(b) «Government» means the [Administrator] Government of Goa, Daman and Diu. [appointed under Article 239 of the Constitution;]

(c) «Mamlatdar» means a person appointed as a Mamlatdar by Government and includes a Joint Mamlatdar;

(d) «Mundcar» shall have the same meaning as is assigned to it in the Legislative Diploma No. 1952 dated the 26th November 1959, as in force for the time being;

[(c)] (e) the words «plaintiff» and «defendant» shall include

(i) a pleader duly appointed to act on behalf of such plaintiff or defendant and

(ii) the recognized agent of a plaintiff or defendant as defined in [section 37] Order III Rule 2 of the Code of Civil Procedure.

(f) «Prescribed» means prescribed by rules made under this Act.

(g) «Village Officer» means such officers as Government may, from time to time specify by notification in the Official Gazette as being a Village Officer.

3. Appointment and Functions of Joint Mamlatdar.

— (1) Government, may, by notification in the Official Gazette, appoint in any Taluka [or other local area] a Joint Mamlatdar under this Act who shall be invested with co-extensive powers and a concurrent jurisdiction with the Mamlatdar, except that he shall dispose of such suits or proceedings only as he may receive from the Mamlatdar, or may be transferred to him by the Collector or by Government.

(2) The Mamlatdar [is hereby empowered to] may transfer to [the] a Joint Mamlatdar [for disposal] any suit or proceeding under this Act [the plaint in] which has been [presented to the Mamlatdar under section 7] instituted in his court and [to] re-transfer to his own file any such suit or proceeding.

Provided however that no suit or proceeding shall be transferred or re-transferred after any evidence has been recorded therein.

4. Powers of Mamlatdars' Courts. — (1) Every Mamlatdar shall preside over a Court, which shall be called a Mamlatdar's Court, and which shall subject to the provisions of sections 5 and [26,] 24 have power, within such territorial limits as may, from time to time, be fixed by Government[—] by notification in the Official Gazette —

(a) to remove or cause to be removed any impediment erected otherwise than under due authority of law, to the natural or customary flow in a defined channel or otherwise of any surface water [naturally] rising in or falling on any land used for agriculture [or grazing] or for trees or other crops, on to any adjacent land, where such impediment causes or is likely to cause damage to the land used for such purposes or to any [such] grazing, trees or crops thereon;

(b) to give immediate possession of any lands or premises used for agriculture [or grazing,] or trees or crops, or fisheries, or to restore the use of water from any well, tank, reservoir, canal or water-course, whether natural or artificial used for agricultural purposes to any person who has been dispossessed or deprived thereof otherwise than [by] under due [course] authority of law, or who has become entitled to the possession or restoration thereof by reason of the determination of any tenancy or other right of any other person, not being a person who has been a former owner or part-owner, within a period of twelve years before the institution of the suit, of the property or use claimed, or who is the legal representative of such former owner or part-owner:

[Provided that, if in any case the Mamlatdar considers it inequitable or unduly harsh to remove or cause to be removed any such impediment or to give possession of any such property or to restore any such use to a person who has become entitled thereto merely by reason of the determination of any such tenancy or other right, or if it appears to him that such case can be more suitably dealt with by a Civil Court, he may in his discretion refuse to exercise the power aforesaid, but shall record in writing his reasons for such refusal.]

(c) to remove or cause to be removed any refuse, mining reject or other substance which has been dumped or placed otherwise than under due authority of law on any agricultural land.

(d) to give immediate possession of any dwelling house situated in any land used for purposes of agriculture to any tenant or agricultural labourer who has been dispossessed or deprived thereof otherwise than under due authority of law;

(e) to give immediate possession to a mundcar of any dwelling house held by him as such of which he has been dispossessed or deprived otherwise than under due authority of law;

(f) to restore or cause to be restored any right of way which has been obstructed or encroached upon otherwise than under due authority of law;

(g) to restore or cause to be restored any right to use or take water for purposes of irrigation or domestic use of which any person has been deprived otherwise than under due authority of law.

(2) The said Court shall also, [subject to the same provisions;] have power within the said limits, where any impediment referred to in clause (a) of sub-section (1) is erected, or an attempt has been made to erect it, or when any refuse, mining reject or other substance is placed or sought to be placed, otherwise than by due authority of law on any agricultural land, or when any person, is otherwise than [by] under due [course] authority of law disturbed or obstructed, or when an attempt has been made so to disturb or obstruct any person in the possession of any lands or premises used for agriculture [or grazing,] or trees, or crops or fisheries, or in the use of water from any well, tank, reservoir, canal or water-course, whether natural or artificial, used for agricultural or domestic purposes, or any such dwelling house as is referred to in clause (d) of sub-section (1), or in the use of roads or [customary ways.] a right of way thereto, to issue an injunction to the person erecting or who has attempted to erect such impediment, or causing, or who has attempted to cause, such disturbance or obstruction requiring him to refrain from erecting or attempting to erect any such impediment or from causing or attempting to cause any further such disturbance or obstruction.

(3) No suit shall be entertained by a Mamlatdar's Court unless it is brought within [six months] one year from the date on which the cause of action arose.

Provided however that a suit in respect of which the cause of action arose before the commencement of this Act may, if it is otherwise not barred by any law for the time being in force, be entertained within one year of such commencement.

(4) The cause of action shall be deemed to have arisen on the date on which the impediment to the natural or customary flow of surface water or the dispossession, deprivation, obstruction, encroachment or determination of tenancy or other right or the unauthorised dumping occurred, or the attempted impediment or disturbance or dispossession or obstruction [on which the impediment, disturbance or obstruction] or encroachment or dumping or deprivation first commences.

Explanation: The exercise by a joint owner of any right which he has over the joint property is not a dispossession, or disturbance of possession of the other joint owner or owners within the meaning of this section.

5. Power of Collector to transfer suit. — (1) The Collector may, upon the application of a party, after due notice to the other parties, for reasons to be recorded, by order in writing, transfer any suit or proceeding at any stage from any Mamlatdars Court in his district to any other Mamlatdar's Court in

his district and the Mamlatdar's Court to which the [suit] case is so transferred shall thereupon exercise jurisdiction in such suit, but any order issued to village officers under section [21] 20 shall be issued by the Mamlatdar to whom such village-officers are subordinate.

(2) The Collector may also similarly transfer a suit or proceeding from a Mamlatdar to a Joint Mamlatdar and from a Joint Mamlatdar to a Mamlatdar.

6. Suits commenced by plaintiff: Contents of plaintiff.— All suits under this Act shall be commenced by a plaintiff which shall be presented to the Mamlatdar in open Court or to any person authorised by him, by the plaintiff, and which shall contain the following particulars:—

(a) the name, age, profession and place of abode of the plaintiff and the defendant;

[(b) the name, age, profession and place of abode of the defendant.]

[(c)] (b) the nature and situation of the impediment erected and the situation of the lands which are adjacent to each other, and the nature of the relief sought; or

[(d)] (c) the nature and situation of the property of which possession [for] or use is sought, or [the nature of the injunction to be granted, as the case may be.]

(d) the nature of the injunction to be granted, or

(e) the nature and situation of the land and of the refuse or other substance which has been dumped thereon, and the circumstances of the dumping, or

(f) the nature and situation of the right of way, which has been obstructed or encroached upon, and the nature of the obstruction or encroachment, or

(g) the nature of the right to water of which there has been deprivation;

[(e)] (h) the date on which the cause of action arose;

[(f)] (i) the circumstances out of which the cause of action arose, and

[(g)] (j) a list of the plaintiff's documents, if any, and of his witnesses, if any, [showing what evidence is required from each witness,] and whether such witnesses are to be summoned to attend, or whether the plaintiff will produce them on the day and at the place to be fixed under section 13.

7. Informal petitions to be treated as plaintiffs.— Where a petition not in the form of a plaintiff is presented [to the Mamlatdar] under section 6 and the subject matter thereof appears to fall within the scope of section 4, the Mamlatdar shall explain to the person presenting the petition the nature of the reliefs afforded by this Act and shall inquire whether the petitioner desires to obtain relief thereby. If the petitioner expresses a desire so to obtain relief, the Mamlatdar shall endorse the desire on the petition which shall then thereupon be deemed to be a plaintiff presented under section 6.

8. Examination of plaintiff on oath.— Where the plaintiff does not contain the particulars specified in

section [5]-6 or is unnecessarily prolix, or is otherwise defective, the Mamlatdar shall [forthwith] examine the plaintiff upon oath and ascertain from him such of the particulars specified in section [5] 6 as are not clearly and correctly stated in the plaintiff or are necessary for rectifying the defects noticed in the plaintiff, and shall reduce the examination to writing in the form of an endorsement on or annexure to the plaintiff which shall thereupon be deemed to be part of the plaintiff.

The record of such writing shall be read over or explained to the plaintiff and his signature obtained thereon.

Where the plaintiff requires time to obtain any of the particulars specified in section [5] 6 or to rectify the defects the Mamlatdar shall grant him such time as may under all the circumstances appear reasonable.

9. Plaintiff to be subscribed and verified.— When the plaintiff is presented, and has if necessary been treated in the manner specified in section 8, the Mamlatdar shall require the plaintiff to subscribe and verify the plaintiff in his presence, in open Court, in the manner following or to the like effect:—

«I, A. B. the plaintiff, do hereby declare that what is stated in this plaintiff is true to the best of my information, knowledge and belief».

10. Endorsement by Mamlatdar.— (1) The Mamlatdar shall endorse the plaintiff to the effect that it was duly subscribed and verified.

(2) Where the plaintiff cannot write, the verification may be written for him in open Court and he shall affix his mark to his name in token of the authenticity of the verification, and the Mamlatdar shall, in such case, record that the verification was made in his presence at the request of the plaintiff and that his mark was so affixed.

11. Rejection of plaintiff.— The Mamlatdar shall reject the plaintiff—

(a) where the plaintiff declines to make a statement on oath under section 8, or

(b) where the plaintiff is willing to make or has made a statement on oath under section 8, but fails to furnish the particulars, specified in section 6 within the time fixed under section 8 or altogether, or

(c) where it appears upon the face of the plaintiff—

(i) that the [property or use] relief claimed is not one of the kind specified in section 4, or

(ii) that the [cause of action arose more than six months before the plaintiff was presented,] suit is barred under sub-section (3) of section 4, or

(d) where the plaintiff declines to subscribe or verify the plaintiff as required by sections 9 and 10.

12. Return of plaintiff.— Where it appears to the Mamlatdar that the subject of the plaintiff is not within his jurisdiction, he shall after hearing the plaintiff return the plaintiff to be presented to the proper Court.

13. Procedure where plaintiff admissible.— (1) Where a plaintiff is admissible, the Mamlatdar shall receive

and file it and shall grant a receipt in the prescribed form. He shall [then] as soon as may be thereafter fix a [convenient] day and place for the trial of the case, and shall issue, at the expense of the plaintiff, notice in [the Form A of the Schedule appended to this Act] the prescribed form to the defendant. He shall then require the plaintiff to appear with his documents, if any, and witnesses if any, on the day and at the place fixed.

(2) The date to be fixed for the trial of the case shall not be earlier than ten days nor later than fifteen days, from the day on which the notice is issued, except for sufficient reason to be recorded in writing by the Mamlatdar with his own hand.

Provided that if the object of the suit is likely to be defeated by giving ten days notice as aforesaid, the Mamlatdar shall fix such shorter period as is necessary to give timely relief.

(3) The place to be fixed for the trial of the case may be in the Mamlatdar's office, or at or near the scene of dispute or at any other spot that the Mamlatdar considers convenient to the parties.

14. Attendance of witnesses. — (1) Where either party requires any witness to be summoned to appear on the day and at the place fixed, the Mamlatdar shall issue a summons for that purpose.

(2) The Mamlatdar may issue, after recording his reasons in writing a warrant for the arrest of any such witness if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

[(3) The payment of the cost incurred in thus procuring the attendance of witnesses shall be regulated in accordance with the rules that may from time to time be in force in regard to the attendance of witnesses in Subordinate Civil Courts.]

15. Effects of default and withdrawal of suits. —

(1) Where the plaintiff fails to attend, or to produce his documents, if any, or to adopt measures to procure the attendance of his witnesses, if any, on the day and at the place fixed, the Mamlatdar shall reject the plaint with costs, whether the defendant appears or not, unless the defendant admits the claim.

(2) Where the plaintiff attends as required by Sub-section (1) of section 13 but the defendant fails to attend, and the Mamlatdar is satisfied from the evidence before him that the notice has been duly served on the defendant and in sufficient time to enable the defendant to appear and answer on the day fixed in the notice, he shall proceed to hear and decide the plaint ex-parte:

Provided, that if either party satisfies the Mamlatdar at any time within thirty days from the date of the rejection of a plaint [under sub-section (2),] or decision of the case ex-parte that he was prevented by some sufficient cause from attending, or from producing his documents or from adopting measures to procure the attendance of his witnesses, as the case may be, it shall be lawful for the Mamlatdar to issue a notice in [the Form B of the Schedule appended to this Act] the prescribed form at the expense of the applicant, to the opposite party

and, if still satisfied after hearing [of] the opposite party that the applicant was prevented as alleged, after recording his reasons, to re-hear the case at such time and place as he may then fix:

Provided further, that nothing in the foregoing provisions shall prevent the plaintiff from withdrawing his suit on payment of the defendant's costs.

16. When proceedings may be adjourned. — (1) Where in the case mentioned in sub-section (2) of section 15 the Mamlatdar is not satisfied from the evidence before him that the notice has been duly served on the defendant, and in sufficient time to enable the defendant to appear and answer on the day fixed in the notice, he shall adjourn the trial of the case and issue a fresh notice under sub-section (1) of section 13 to the defendant.

(2) Where any witness who has been duly summoned, or for whose arrest a warrant has been issued under sub-section (2) of section 14, fails to attend on the day and at the place fixed, the Mamlatdar may, [if he considers there is] for sufficient reasons to be recorded in writing, after taking the evidence of those present, adjourn the hearing of the suit from time to time till the attendance of such witness can be enforced.

Provided however that the Mamlatdar may, if he is satisfied for reasons to be recorded in writing that the evidence of any witness is not relevant or material, or that his presence is sought only for the purposes of vexation or delay or for defeating the ends of justice, decline to adjourn the hearing as aforesaid.

(3) The Mamlatdar may, for any other sufficient reason to be recorded in writing adjourn the trial of the case for such time as he thinks fit, but not ordinarily exceeding ten days.

(4) The provisions of sections 14 and 15 shall apply in respect of any day to which the trial of the case may be adjourned under this section, as if such day were the day originally fixed for the trial.

17. Parties to suits. — (1) A minor may sue or be sued, if he is represented by a natural or duly appointed guardian.

(2) The Mamlatdar may, at any stage of the proceedings order that the name of any person to whom possession or enjoyment of the property or use claimed, or of any part thereof, may have been transferred, or the addition of whom as a party appears necessary in order to enable the Court effectually and completely to adjudicate upon the issues, be added as a plaintiff or defendant, as the circumstances of the case may require:

Provided that no person shall be added as a plaintiff without his consent:

Provided further that in respect of any person so added not being a transferee pending the suit, the suit shall for the purposes of sub-section (3) of section 4, be deemed to have been instituted on the day when his name was so added.

(3) In case of the death of any party while the suit is pending;

(i) if application is made within one month of such death, the Mamlatdar shall determine summarily who is the legal representative

of the deceased party and shall enter on the record the name of such representative;

- (ii) if no such application is made, the suit shall abate.

(4) Where the Mamlatdar orders the name of any person[s] to be added as a defendant or enters on the record the name of any person as the legal representative of a deceased defendant the Mamlatdar shall issue to such person a notice as provided in section 13, and the trial shall proceed on the date fixed in such notice.

18. Procedure and powers of Mamlatdars' Courts.—

(1) On the day fixed or on any day to which the proceedings may have been adjourned, the Mamlatdar shall, subject to the provisions of section 15 proceed to hear all the evidence that is then and there before him, and to try the following issues, namely:—

(a) If the plaintiff avers that the natural flow of surface water from his land has been impeded by any erection raised by the defendant causing damage or likelihood of damage to the plaintiff's land or to any grazing, trees or crops thereon—

- (i) whether surface water flowed in a defined channel or otherwise, naturally or customarily from plaintiff's land on to the defendant's land;
- (ii) whether the defendant erected any impediment to such flow, otherwise than under due authority of law;
- (iii) whether [such erection impeded such natural flow of water within six months before the suit was filed;] the suit was filed within the time allowed by sub-section (3) of section 4;
- (iv) whether such impediment has caused or is likely to cause damage to plaintiff's land or to any grazing, trees or crops thereon;

(b) If the plaintiff avers that he has been unlawfully dispossessed of any property or deprived of any use—

- (i) whether the plaintiff or any person on his behalf or through whom he claims was in possession or enjoyment of the property or use claimed [up to any time within six months before the suit was filed;];
- (ii) whether the defendant is in possession at the time of the suit, and, if so, whether he obtained possession otherwise than by due course of law;
- (iii) whether the suit was filed within the time allowed by sub-section (3) of section 4;

(c) If the plaintiff avers that he is entitled to possession of any property or restoration of any use by reason of the determination of any tenure or other right of the defendant in respect thereof—

- (i) whether the defendant is in possession of the property or in the enjoyment of the use by a right derived from the plaintiff or from any person through whom he claimed;
- (ii) whether [such right has determined at any time within six months before the suit was

filed;] the suit was filed within the time allowed by sub-section (3) of section 4;

- (iii) whether the defendant is other than a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the property or use claimed, and other than the legal representative of such former owner or part-owner.

(d) If the plaintiff avers that he is still in possession of the property or in the enjoyment of the use, but that the defendant disturbs or obstructs, or has attempted to disturb or obstruct him in his possession or use—

- (i) whether the plaintiff or any person [in] on his behalf is actually in possession or enjoyment of the property or use claimed;
- (ii) whether the defendant is disturbing or obstructing or has attempted to disturb or obstruct, him in such possession or enjoyment;
- (iii) whether [such disturbance or obstruction, or such attempted disturbance or obstruction, first commenced within six months before] the suit was filed within the time allowed by sub-section (3) of section 4.

(e) If the plaintiff avers that he is in possession of any agricultural land, and that the defendant has placed, or threatens to place any refuse, mining reject, or other substance thereon—

- (i) whether the plaintiff or any person on his behalf is actually in possession or enjoyment of the land in question;
- (ii) whether the defendant has placed or is attempting to place any refuse, mining reject or other substance, without due authority of law;
- (iii) whether the suit was filed within the time allowed by sub-section (3) of section 4.

(f) If the plaintiff avers that he is entitled to a right of way and that the defendant has obstructed, or has encroached upon it—

- (i) whether the plaintiff or any person on his behalf was in beneficial enjoyment of the right of way;
- (ii) whether the defendant has obstructed or encroached upon it otherwise than under due authority of law;
- (iii) whether the suit was filed within the time allowed by sub-section 3 of Section 4.

(g) If the plaintiff avers that he has been deprived of any right to use or take water for purposes of irrigation or domestic use—

- (i) whether the plaintiff or any person on his behalf was in enjoyment of the right to use of take water;

- (ii) whether the defendant has deprived the plaintiff of such right otherwise than under due authority of law;
- (iii) whether the suit was filed within the time allowed by sub-section 3 of Section 4.

(2) The Mamlatdar may, after due notice to, and in the presence of, the parties, summon and examine as a witness any person who has not been summoned or produced, and may call for and cause to be proved any document which has not been applied for or produced, by either of the parties, where he considers it expedient in the interests of justice so to do, and may, if he thinks fit, make a personal inspection of the property in dispute in the presence of, or after due notice to, the parties.

He shall after hearing the parties if present record on the spot without unnecessary delay [record] a memorandum [after hearing the parties on the spot, if present] of any relevant facts observed at such inspection. The memorandum shall form part of the record of the case.

(3) The Mamlatdar shall [with his own hand] make or cause to be made [sign] a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds. [and briefly record his reasons for his finding.] The memorandum shall be signed by the Mamlatdar, read over or explained to the witness and his signature obtained thereon.

(4) Where the Mamlatdar's finding upon the issues for which he shall briefly record his reasons, is in favour of the plaintiff, he shall make such order, [not being in excess of the powers vested in him by section 4] as the circumstances of the case appear to him to require, and where his finding[s] is in favour of the defendant, he shall dismiss the suit. In either case the costs of the suit including the costs of execution shall follow the decision except in special circumstances for reasons to be recorded in writing by the Mamlatdar.

19. Mamlatdar's order to be endorsed on plaint and read out in open Court. — Every order of the Mamlatdar, whether for rejecting or returning a plaint or whether for allowing or disallowing a claim shall be endorsed by the Mamlatdar on the plaint and shall be read out by him in open court, either at once or on some future day of which due notice shall be given to the parties or their pleaders, and brief reasons for the order shall be placed by him on record.

20. Mamlatdar's decision how executed. — (1) Where the Mamlatdar's decision is for removal of an impediment or unauthorisedly dumped refuse or an encroachment or for awarding possession or restoring a use, he shall give effect thereto forthwith by issuing such orders to the village-officers, or to any subordinate under his control or otherwise, as he thinks fit or in such other manner as may be prescribed and may use or cause to be used such force as may be reasonably necessary for that purpose. The cost of removing such impediment, refuse or encroachment by the Mamlatdar shall be recoverable from the defendant as arrears of land revenue.

Provided that notwithstanding anything contained in this Act, where at the time when a decision is recorded by the Mamlatdar [for removal of the impediment erected on any land or] for award [in] of possession of any land, there is a crop on such land which has been sown by or at the expense of the defendant, and the Mamlatdar is satisfied that it has been so sown in good faith, the Mamlatdar may, and if the defendant makes an application for the purpose and furnishes sufficient security, or deposits in Court a sufficient sum for the payment of the costs of the suit, shall pass an order staying delivery of possession of such land to the plaintiff seeking possession thereof, either—

(a) until the plaintiff agrees to take the crop at a valuation to be made under the orders of the Mamlatdar according to the value of the crop at such time, including any instalments of the Government assessment which the defendant may have paid for the current year; or

(b) where the plaintiff is unwilling to take the crop at such valuation until after the expiration of sufficient time for the crop to be gathered by the defendant.

The amount of any valuation made under clause (a) of the proviso to this sub-section shall be paid to the defendant through the Mamlatdar, and shall be recoverable from the plaintiff as an arrear of land revenue.

(2) Where the Mamlatdar's decision is for granting an injunction, he shall cause the same to be prepared in the [Form C or D of the Schedule appended to this Act as the case may be] prescribed form and shall deliver or tender the same then and there to the defendant, if present or if the defendant is not present, shall send it to the village-officers, or to any subordinate under his control to be served upon the defendant.

(3) Where the Mamlatdar awards costs, such costs, together with the costs of execution shall be recoverable from the party ordered to pay them as an arrear of land revenue.

(4) Any person disobeying an injunction granted under sub-section (2) shall be punishable under section 188 of the Indian Penal Code.

21. Possession to be given without prejudice to rights of parties. — Subject to the provisions of sub-section (2) of Section 22 the party in favour of whom the Mamlatdar issues an order for removal of an impediment or refuse or the party to whom the Mamlatdar gives possession or restores a use, or in whose favour an injunction is granted, shall continue to have the surface water upon his land flow unimpeded on to adjacent land or continue in possession or use, of the land, dwelling house, right of way or right to water, as the case may be, until otherwise decreed or ordered, or until ousted, by a competent Civil Court:

Provided, that nothing in this section shall prevent the party against whom the Mamlatdar's decision is passed from recovering by a suit in a competent Civil Court mesne profits for the time he has been kept out of possession of any property or out of enjoyment of any use[:] or the cost of removing the impediment, refuse or encroachment:

Provided, further, that in any subsequent suit or other proceeding in any Civil Court between the same

parties, or other persons claiming under them the Mamlatdar's decision respecting the possession of any property or the enjoyment of any use or right or respecting the title to or valuation of any crop dealt with under the proviso to sub-section (1) of section 20, shall not be held to be conclusive.

22. Collector's power of revision. — (1) Subject to the provisions of sub-section (2) every order passed by a Mamlatdar under this Act, shall be final.

(2) The Collector may, on his own motion or on an application made by an aggrieved party, or on a direction by Government call for and examine the record of any suit or proceeding under this Act, and if he considers that any proceeding, finding or order in such suit is illegal or improper, may, after due notice to the parties, pass such order thereon, not inconsistent with this Act, as he thinks fit.

Provided that no record shall be called for after the expiry of sixty days from the date of the order, unless an application for that purpose, or a direction to that effect has been received by the Collector within the aforesaid period.

(3) [The Collector may delegate the powers conferred on him by this section to any Assistant Collector or Deputy Collector subordinate to him.] Government may by notification in the Official Gazette, authorise any officer not below the rank of a Deputy Collector to exercise all the powers of the Collector under this section.

(4) [Where] when the Collector, [Assistant Collector or Deputy Collector] or any officer authorised under sub-section (3), takes any proceedings under this [Act] section he shall be deemed to be a Court under this Act.

23. Punishment for verification of false plaint. — Any plaintiff subscribing and verifying any plaint under this Act which he either knows or believes to be false, or does not believe to be true, in any material point, shall be deemed to have committed an offence punishable under section 193 of the Indian Penal Code.

24. Bar of certain suits. — No suit shall lie under this Act —

(a) against Government or against any Government officer in respect of any act done or purporting to be done by any such officer in his official capacity, except where acting as a manager or guardian duly constituted under any law for the time being in force; or

(b) in respect of any removal of any impediment or refuse or of any dispossession, recovery of possession or disturbance of possession, that has been the subject of previous proceedings, to which the plaintiff or his predecessor in interest was a party, under this Act, or in a Civil Court, or under Chapter XII of the Code of Criminal Procedure, 1898 (V of 1898).

25. Authority to confer additional power. — Government may by notification in the Official Gazette invest a Mamlatdar with such powers of a Civil Court as may be specified, for the purposes of this Act, [or any other law for the time being in force.]

26. Power to make rules. — (1) Government may by notification in the Official Gazette, make rules generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:—

(a) the mode of issue and service of a summons or notice under this Act;

(b) the execution of orders and warrants issued by a Mamlatdar's Court;

(c) the payment of costs incurred in procuring the attendance of witnesses;

(d) the scale of costs to be awarded to the successful party;

(e) the procedure to be followed by the Collector under section 22;

(f) the books, registers and accounts to be maintained and the returns to be submitted by the Mamlatdar;

(g) any other matter which has to be or may be prescribed.

(3) All rules made under this Act shall be laid on the table of the Legislative Assembly after they are made and shall be subject to such modifications as the Assembly may make during the session in which they are so laid or the session immediately following.

27. Government's power to give directions. — (1) Government shall have powers to issue directions or orders to the Mamlatdar and the Collector to give effect to the provisions of this Act and the rules made thereunder.

(2) Without prejudice to the generality of the foregoing, Government may

(a) call for returns;

(b) direct the transfer at any stage of any suit or proceeding from one Mamlatdar's Court to another Mamlatdar's Court in the same district;

(c) issue such general directions and provide for regulating the practice and procedure of Mamlatdar's Courts.

28. Bar on appearance by Pleaders: — Notwithstanding anything contained in this Act or any law for the time being in force, no Pleader shall be entitled to appear on behalf of any party in any proceedings under this Act before the Mamlatdar.

Provided that the Mamlatdar may, in the interests of justice and for reasons to be recorded in writing, allow the parties to be represented at their own cost by a pleader;

Provided further that pleader's fees shall not be allowed as part of the costs in any such proceedings;

Provided also that if any officer of Government is appointed or declared by a competent court or is authorised under any law for the time being in force as a guardian, administrator or manager of the property of a person who is under a legal disability or is incompetent or unable to manage or to act, such officer shall be entitled to appear through a representative authorised by him in writing in this behalf in any proceedings before the Mamlatdar. Such representative who may be a pleader may also submit any application and otherwise act on behalf of the officer in any such proceedings. If such representative is a pleader, the other party may also be represented by a pleader.

Explanation: For the purpose of this section the expression «pleader» includes an advocate, attorney, vakil or any other legal practitioner and does not include a representative of Farmers Organisation.

[(26)] (29). *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of [the] this Act, Government may, by order as occasion requires, do anything (not inconsistent with this Act) which appears to it to be necessary for removing the difficulty.

[SCHEDULE

FORM A

In the Court of the Mamlatdar of ...

Plaintiff;
Defendant.

To Defendant — (name, age, profession and place of abode). Whereas (here enter the name, age, profession and place of abode of the plaintiff) has instituted a suit in this Court against you (here state the particulars of the plaint):

You are hereby summoned to appear in this Court at the village of ... in person or by duly authorised agent on the ... day of ... at ... o'clock ... m., to answer the above-named plaintiff; and, as the plaint will be finally disposed of on that day, you must adopt measures to produce your documents and procure the attendance of your witnesses at the hour and place above fixed; and you are hereby required to take notice that, in default of such appearance at the before mentioned time and place, the suit will be heard and determined in the absence of yourself and your agent.

Dated this ... day of ... 19...

(signed)
Mamlatdar.]

[FORM B

In the Court of the Mamlatdar of ...

Plaintiff
Defendant.

To Plaintiff. (or Defendant, as the case may be).

Whereas, in the suit above specified, instituted in this Court by ... the Court ordered on the ... day of ... last that ...

and the said plaintiff (or defendant, as the case may be), has under date the ... day of ..., applied to this Court to re-hear the case on the grounds that (here state the grounds).

This is to give you notice that the said application will be heard and determined on the ... day of ... at ... o'clock ... m., at the village of and you are hereby required to take notice that in default of your appearance personally or by an agent at the said time and place the application will be heard and determined in your absence and if granted, at time and place for re-hearing the suit will then be fixed.

Dated this ... day of ... 19...

(signed)
Mamlatdar.]

[FORM C

In the Court of the Mamlatdar of ...

... Plaintiff
... Defendant

To Defendant

Whereas in the suit above specified the Court has this day found that you have impeded (or that you have attempted to impede) the natural flow of surface water naturally rising in or falling on the plaintiffs under-mentioned property by (here describe the property and the impediment erected, or attempted to be erected, found proved).

You are hereby prohibited from erecting or attempting to erect any impediment (if necessary set forth the particular kind of impediment which the defendant is enjoined not to erect) to the natural flow of surface water from the said plaintiff's said property on to your property otherwise than under authority of a competent Civil Court.

Dated this ... day of ...

(signed)
Mamlatdar.]

[FORM D

In the Court of the Mamlatdar of ...

Plaintiff;
Defendant.

To Defendant

Whereas in the suit above specified the Court has this day found that you have disturbed or obstructed (or that you have attempted to disturb or obstruct) the said plaintiff in his possession of the under-mentioned property (or enjoyment of the under-mentioned use of water or use of roads, or otherwise as the case may be by (here describe the disturbance or obstruction or attempted disturbance or obstruction found proved).

You are hereby prohibited from making any further attempt to disturb or obstruct (if necessary, set forth the particular kind of disturbance or obstruction which the defendant is enjoined not to repeat) the said plaintiff in his possession of the said property (or otherwise as the case may be) otherwise than in execution of the decree of a competent Civil Court.

Dated this ... day of ... 19...

(signed)
Mamlatdar.]

ASSEMBLY HALL

Panjim,

March 1, 1966.

P. B. VENKATASUBRAMANIAN

Secretary to the Legislative Assembly

of Goa, Daman and Diu.

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